

REMARKS/ARGUMENTS

Reconsideration and allowance of all claims remaining of record is respectfully requested.

Responsive to the Official Action of August 22, 2007 setting forth the Examiner's Restriction by Original Presentation and the Notice of Non-Compliant Amendment mailed December 13, 2007, applicants hereby respectfully traverse and request reconsideration and withdrawal or modification of the Restriction by Original Presentation requirement for at least the following reasons:

Applicant respectfully submits that applicant's claims as originally presented 1/14/07, although perhaps somewhat broader in scope than applicant's claims as amended 6/1/07, are directed toward the same disclosed implementation as applicant's 6/1/07 amended claims and would not require a different field of search of prior the art or result in a significant or increased examination burden because all of the recited steps/features of both sets of claims would not require or result in different classifications if/when ultimately allowed. Applicant's claims as amended 6/1/07 are not directed toward divergent subject matter from the claims originally presented for examination.

Both sets of claims are directed toward a game machine using a nonvolatile memory "having *two or more game data backup areas*". As originally presented, applicant's claimed "writing prohibitor" prohibits a writing "only when a backup area containing game data saved immediately before the last game data becomes selectable as a write-objective backup area." The "writing prohibitor" of applicant's claims as amended 6/1/07 prevents a writing of the last game data to the selected write-objective backup area "if said writable backup area determination programmed logic circuitry determines that two or more writable backup areas are not present in

said nonvolatile memory.” The operation performed by applicant’s claimed “writing prohibitor” is substantially the same. As presented in the discussion in the specification of applicant’s application, for example at page 25, lines 6 -16 and Figure 14:

“As shown in Figure 14, in the backup process of this embodiment, if “NO” in the step S27, that is, if failing in writing of the game data, it is determined whether or not another writable backup area is present in a step S101. More specifically, it is determined whether or not two or more writable backup area exist. If “NO” in the step S101, that is, if only one writable backup area is present, the writing process of the game data is ended in the step S29 so as to prohibit the writing of the backup area.”

In the event the Examiner’s requirement of Restriction by Original Presentation is not withdrawn (or overruled after a petition), applicant specifically reserves the right to further prosecute all claims which currently stand withdrawn/restricted by the Examiner (i.e., the amended claims presented in applicant’s Response filed June 1, 2007), and are presently listed herein as “withdrawn” claims 12-22, in an appropriate Divisional or Continuation application.

By this Response/Amendment, applicant provisionally elects with traverse claims 1-11 originally presented in applicant’s January 14, 2005 Preliminary Amendment, and acted upon by the U.S. Patent Office in the first Office Action mailed March 1, 2007, as “the invention to be examined” in compliance with the Examiner’s August 22, 2007 restriction requirement.

In this Response/Amendment, originally presented claims 1-11 are amended above to more particularly point out and distinctly claim Applicants' invention. In particular, dependent claims 3 and 8 are canceled without prejudice or disclaimer and the remaining claims 1-2, 4-7

and 9-11 are amended so as to give greater emphasis to some of the novel and patentable features set forth in these claims. The Abstract is also further amended to more clearly describe aspects of applicant's claimed implementation of a game program backup data control method and apparatus. This amendment is supported in applicant's specification, for example, at page 21, lines 8 et seq. and page 25, lines 6-19. In addition, "Table 1" in the specification is amended to more clearly illustrate the conditions explicitly stated in the corresponding description of that Table in the specification. The specification is also further amended at the indicated pages to clarify wording/phrases used to describe applicant's example implementation and to correct for various non-idiomatic grammatical language and typographical errors not previously corrected. All of the foregoing amendments are supported by the original disclosure. No new matter has been added. If the Examiner should disagree, however, it is respectfully requested that the challenged limitation be pointed out with particularity in the next Action so that support may be cited in response.

The Examiner is respectfully requested to acknowledge receipt and entry of applicant's amendments to drawing Figures 2 and 11, which were previously submitted in applicant's September 20, 2007 Response.

The rejection of claims 1-3, 5-8, 10 and 11 under 35 U.S.C. §103(a) as allegedly being unpatentable over Ohno et al. (U.S. Patent No. 5,609,525) in view of the operation of a conventional "circular buffer" is traversed.

Ohno et al. describe an arrangement in a video game machine that uses a "save memory" that is write protected unless the memory is specifically performing a game data save operation for a game of the same game title – so that saved games of other titles are not overwritten when saving game data of a particular game title. (See e.g., the '525 patent at col. 2, lines 52-63 and

Fig. 10, blocks ST2-ST10.) If the title of the game for the game data being saved is found to already exist in save memory then that save memory area is overwritten with the game. (See '525 patent at col. 5, lines 66 through col. 6, line 3.) Applicant respectfully submits that the save memory write protection arrangement disclosed by Ohno et al. is in no manner similar in operation or even remotely suggestive of applicant's claimed implementations. In addition, applicant's claimed implementation also does not operate or function in the manner of a "circular buffer" memory, nor is the operation of a conventional circular buffer memory in any way remotely suggestive of applicant's claimed implementation for at least the following reasons:

Applicant's claimed implementation sets forth a game data backup arrangement and method which ensures that the backup memory will always contain a copy of the *last most recent previously saved game data* (i.e., saved game data that was generated during the immediately preceding game play session) and that this copy of last previously saved game data will *not* be overwritten even when attempting to save data from the same game. In this regard, independent claims 1 and 5 are presently amended to incorporate the limitations of canceled dependent claims 3 and 8, and also to more clearly set forth that a writing of the last game data to the game data backup storage areas is prohibited and the game data backup writing process is ended without storing the last game data if attempting a writing of the last game data *to a selected write-objective backup area* is still unsuccessful after a predetermined number of repeated attempts *and only a backup area containing game data saved immediately before the last game data is available as a write-objective backup area.*

Similarly, independent claims 10 and 11 are likewise amended to more clearly set forth that further writing of last game data into any of backup areas is prohibited when writing into *the selected write-objective backup area* is not successfully executable *and only a backup area*

containing game data stored immediately before the last game data was generated remains available for selection as a write-objective backup area.

Neither Ohno et al. nor the operation of a conventional “circular buffer”, nor any of the prior art of record art currently of record, either teaches or suggests applicant’s claimed arrangement and method for backing up game data as set forth in applicants’ independent claims as amended. Accordingly, it is submitted that dependent claims 1, 5, 10 and 11 are patentably distinct over the teachings of Ohno et al. in view of the operation of a conventional “circular buffer.”

Claims 2, 4, 6, 7 and 9 are dependent on either claims 1 or 5 and since neither Ohno et al. nor the operation of a conventional “circular buffer” nor any of the prior art of record suggest the features or steps as discussed above and set forth in applicants’ independent claim 1 or 5 as amended, it is respectfully submitted that these dependent claims are patentable over the individual as well as the combined teachings of these references.

The rejection of dependent claims 4 and 9 under 35 U.S.C. §103(a) as allegedly being unpatentable over Ohno et al. in view of Himoto et al. (U.S. patent 6,478,697) is also respectfully traversed for at least the same reasons as set forth above in regard to independent claims 1 and 5 from which claims 4 and 9 respectively depend. Himoto et al. is directed toward a memory device that incorporates a small-sized LCD display and which is used in conjunction with a hand-held game controller. Himoto et al. neither teach nor suggest anything relating to ensuring that a game data backup storage memory will always contain a copy of the last most recent previously saved game data, in the manner as set forth in applicant amended claims 1 and 5. Consequently, for at least that reason alone, applicant respectfully contends that Himoto et al. considered either alone or together with Ohno et al. fails to disclose or suggest the limitations

discussed above and set forth in applicants' independent claims as presently amended.


Moreover, claims 4 and 9 are respectively dependent on claims 1 and 5, and since neither Ohno et al. nor Himoto et al. considered either alone or together teach or suggest the features or steps as discussed above and set forth in applicants' independent claims 1 and 5 as amended, it is respectfully submitted that dependent claims 4 and 9 are also patentably distinct over the teachings of Ohno et al. and Himoto et al. for at least the same reasons set forth above with respect to claims 1 and 5.

All of the above and foregoing amendments to specification and claims are fully supported by the original disclosure and, thus, no new matter has been added. If the Examiner should disagree, however, it is respectfully requested that the challenged limitation be pointed out with particularity in the next Action so that support may be cited in response.

In view of Applicant's foregoing amendments and remarks, it is believed that the application is in condition for allowance. Favorable consideration of this application is respectfully solicited. If any small matter remains outstanding, the Examiner is encouraged to telephone Applicants' representative at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYTE P.C.

By: 
William G. Niessen
Reg. No. 29,683

WGN
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100